IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Appeal from Order no. 291 of 2002

Sri Bhupal Singh Manral
S/o Sri Kundan Singh Manral
R/o Village Dopakhi Garampani
District Nainital

...Appellant

Vs.

1. Sri Heera Singh Dhapola
   S/o Sri Dhan Singh Dhapola
   R/o Mohalla 84 Bageshwar
   District Bageshwar
   Owner of Vehicle No. UP28/0331
2. M/s New India Assurance Company Ltd.
   Branch R.L. Sah Building Mal Road
   Almora through its Divisional Manager
   Near Judge Court Haldwani
   District Nainiral .....Respondents

Sri G.B. Pande, learned counsel for the appellant

Hon'ble B.C. Kandpal, J.

This appeal under Section 173 of Motor Vehicles Act has been preferred by the appellant – Bhupal Singh Manral against the judgment and award dated 18.09.2002 passed by Motor Accident Claims Tribunal/District Judge, Nainital in M.A.C.P. No. 181 of 2001 Bhupal Singh Manral Vs Heera Singh Dhapola & others by which the Tribunal awarded concerned of Rs. 17,399.00 along with interest @ 9% per annum in favour of the appellant/claimant.

2. Brief facts of the case are that on 20.10.2001 at about 06:00 a.m. claimant/appellant was going from his house to Dopakhi to milching his cows and was on his left side on the road. Suddenly, a Maruti Car bearing registration No. UP28/0331 came from Garampani side and dashed the claimant resulting which he fell down and got fractured on his right leg and right hand finger. The vehicle in question was

being driven in a very rash and negligent manner. At the time of accident the claimant incurred about Rs. 25,000/- in the treatment of his injuries. Apart from the expenditure of Rs. 25,000/- as mentioned above, Rs. 20,000/- were spent by the claimant on the relatives for their conveyance and residence who attended the claimant during that period. With these allegations, the claimant filed the claim petition for Rs. 5,00,000/- against the owner as well as Insurance Company as compensation.

3. Thereafter notices were issued the respondents. The respondents contested the claim petition by filing the written statement separately. Respondent No.1 – Hera Singh Dhapola owner of the vehicle in his written statement has denied the contents of the claim petition but in additional pleas he has stated that the driver of Maruti Van was being driven with caution on the left side on the road and the accident took place due to the negligence on the part of the claimant/appellant. He has further pleaded that at the time of accident the vehicle in question was insured with respondent No. 2 – Insurance Company. Respondent No. 2 – Insurance Company has also denied the contents of the claim petition for the want of knowledge in the written statement. He has further pleaded that the claim is not maintainable for the want of compliance of provisions of Motor Vehicle Act.

4. On the basis of the pleadings of the parties, following issued are framed by the Tribunal:-

1. Whether the claimant B.S. Manral got injured in an accident on 20.10.2001 due to rash and negligent driving on the part of the driver of Maruti Car registration No. UP28/0331 owned by respondent

No. 1 and insured with respondent No. 2, as alleged in the claim petition?

2. Whether the claimant suffered the loss claimed, if so to what amount of compensation and from whom, is he entitled?
3. Whether the claim petition is not maintainable as alleged in the written statement of respondent No. 2?
4. To what relief, if any, claimed is entitled?

5. The Tribunal after having considered the entire material available on record, allow the claim petition for a sum of Rs. 17,399/- along with interest @ 9% per annum in favour of the claimant/appellant vide order dated 18.09.2002.

6. Feeling aggrieved by the aforesaid judgment and award, the claimant/appellant filed this appeal for enhancement of the compensation.

7. Heard Sri G.B. Pande, learned counsel for the appellant and perused the record.

8. The Tribunal while deciding the issue No. 2 has discussed all the evidence in detail. The Tribunal has also taken into consideration the amount which was incurred by the claimant on his medical treatment. The Tribunal has also awarded the additional amount for pain and suffering as well as loss of income.

9. The finding recorded by the Tribunal appears to be quite justified and based on sound assessment of record. I am of the view that the impugned award does not require any interference by way of this appeal. The argument advanced by

the learned counsel for the appellant for enhancement of the quantum of compensation is devoid of any force.

10. The appeal lacks merit and is liable to be dismissed.

11. Accordingly, the appeal is dismissed in-limine.

(B.C. Kandpal, J.)

22.09.2006
ASWAL